

UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF PENNSYLVANIA

EDWARD BISSAU MENDY, *et al.*, :
Plaintiffs :
v. : Civil Action No. 1:22-cv-00535
BOXREC, *et al.*, : (Judge Conner)
Defendants : (Chief Magistrate Judge Mehalchick)

**BRIEF IN SUPPORT OF MOTION TO STRIKE AND/OR DISMISS
AMENDED COMPLAINT OF DEFENDANTS BOXREC LIMITED, JOHN
SHEPPARD AND MARINA SHEPPARD**

I. INTRODUCTION

By Order dated September 11, 2023, this Honorable Court adopted Chief Magistrate Judge Karoline Mehalchick's Report and Recommendation (Doc. 51), granting the motion to dismiss of the BoxRec Defendants¹ for lack of personal jurisdiction. (Doc. 53) In the Order, the Court dismissed Plaintiffs' claims against the BoxRec Defendants without leave to amend for lack of personal jurisdiction. (*Id.*) Thereafter, in direct violation of the Order, Plaintiffs filed an amended complaint naming the BoxRec Defendants as defendants. (Doc. 56) The Court should strike and/or dismiss the amended complaint as to the BoxRec Defendants for lack of personal jurisdiction.

¹ Defendants, BoxRec Limited, John Sheppard and Marina Sheppard.

II. ARGUMENT

In its September 11, 2023 Order, this Court ruled that Plaintiffs were granted leave to amend their complaint only as to Defendant Association of Boxing Commissions (“ABC”). (Doc 53) The Court specifically noted that Chief Magistrate Judge Mehalchick recommended that the all claims against the BoxRec Defendants be dismissed for lack of personal jurisdiction and that amendment would be futile. (*Id.*) The Court adopted Chief Magistrate Judge Mehalchick’s report (Doc. 51) in its entirety. (*Id.*) Specifically, the Court ordered that:

The BoxRec defendants’ motion (Doc. 28) to dismiss plaintiffs’ complaint is GRANTED and plaintiffs’ claims against the BoxRec defendants are DISMISSED without leave to amend for lack of personal jurisdiction. (Doc 53, p. 2) (emphasis added)

On September 12, 2023, the undersigned counsel for the BoxRec Defendants emailed Plaintiffs a copy of the Order and admonished them not to name the BoxRec Defendants in any amended complaint in light of the dismissal without leave to amend for lack of personal jurisdiction. In the face of the Order and this further notification, Plaintiffs filed an amended complaint naming the BoxRec Defendants as defendants on October 2, 2023, which is substantially the same as the complaint which the Court dismissed against the BoxRec Defendants without leave to amend for lack of personal jurisdiction. (Doc. 56) Prior to filing the instant motion, the undersigned counsel requested that the plaintiffs withdraw the amended complaint as to the BoxRec Defendants, but plaintiffs have refused to do so.

The Court should strike or dismiss the amended complaint as to the BoxRec Defendants with prejudice and without leave to amend. The amended complaint was filed without leave to amend as to the BoxRec Defendants because the Court determined that it lacked personal jurisdiction over the BoxRec Defendants and denied leave to amend as futile. (Doc. 53). Plaintiffs have not filed a motion to reconsider the Court's decision to grant the BoxRec Defendants' motion to dismiss without leave to amend for lack of personal jurisdiction.² Nor would such a motion have been meritorious because Plaintiffs have not offered any evidence to support this Court's assertion of personal jurisdiction over the BoxRec Defendants. There are no facts alleged in the amended complaint which would support the assertion of personal jurisdiction over the BoxRec Defendants. Plaintiffs are wasting the Court's and the parties' resources with needless motion practice to enforce the Court's September 11, 2023 Order dismissing all claims against the BoxRec Defendants without leave to amend for lack of personal jurisdiction. Plaintiffs should be ordered to refrain from filing further pleadings or motions as to the BoxRec Defendants in this Court for lack of personal jurisdiction or be subject to sanctions for doing so.

² See L.R. 7.10.

III. CONCLUSION

The Court should strike or dismiss the amended complaint as to the BoxRec Defendants with prejudice and without leave to amend, and direct Plaintiffs to refrain from any further filings as to the BoxRec Defendants in this Court for lack of personal jurisdiction or be subject to sanctions for doing so.

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Date: 10/30/23

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CERTIFICATE OF SERVICE

I hereby certify that on this day a true and correct copy of the foregoing Brief in Support of Motion to Strike and/or Dismiss was served upon the person(s) and in the manner indicated below:

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